Arb.P. 16/2006

BEFORE

THE HON'BLE MR JUSTICE P.G.AGARWAL

Heard Mr. N. Kerani, learned counsel for the petitioner and Mr. N. K. Singh, learned counsel for the respondents.

In connection with the dispute that arose between the parties, regarding construction undertaken by the present petitioner A.S. Khathing, there was an award of arbitrator and the said award was set aside vide judgment dt. 30.11.01 in Arbitration Case No. 11 of 1996 by the Civil Judge, Senior Division No.1, Manipur East. The Court further provided that it is a fit case for remitting back to the arbitrator for making a fresh award in the light of the above judgment.

Mr. N.K. Singh, learned counsel for the respondents has submitted that although the order was passed in the year 2001 the present petitioner failed to take steps and as such no arbitrator could be appointed under the Arbitration Act, 1996 as on now. The learned counsel for the petitioner, on the other hand, submits that in the meantime, Central Electronic Design and Technology Institution (CEDTI) was merged or amalgamated with DOEACC and the petitioner was trying to collect the address of the sole arbitrator Shri KV Guruswami but by the time a new Act came into force and hence the present petition.

On perusal of the documents, we do find that there was certain lapse here and there on the part of the petitioner for remitting the matter back to Shri Guruswami but on that count, we do not intend to deprive the petitioner from redressal of the grievances by way of arbitration, in view of the order passed earlier.

The learned counsel for the respondents has further submitted that NIDC Ltd. is a necessary party and without impleading them as party respondent, an arbitrator may not be appointed.

We have perused the letter dt. 26.9.02 (Annexure-A/4) sent to the petitioner by the NIDC wherein it was stated that NIDC was working as a consultant/agent of CEDTI (now DOEACC).

In view of the above, we hold NIDC is not a necessary party. They were a agent of CEDTI and liability, if any, arising out of arbitration will be that of DOEACC only.

In view of the above, we hereby appoint Mr. C. Upendra Singh, Retd. District & Sessions Judge as the sole arbitrator in the matter.

The arbitration petition is disposed of.